



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 226-00
24 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The records provided for the Board's review are incomplete. However, available records reflect that you enlisted in the Navy on 30 January 1989 for four years at age 19. You were advanced to SK3 (E-4) and served without incident until 8 August 1991, when you were convicted by special court-martial of theft of a pair of tennis shoes, a cordless drill and a fishing reel from the Navy Exchange. You were sentenced to confinement at hard labor for 25 days, forfeitures of \$150 per month for two months, and reduction in rate to SKSN (E-3).

You served without further incident until 9 April 1992 when you were convicted by general court-martial of stealing property from the Navy Exchange, valued at \$279; stealing property of another person in the amount of \$1,125; receiving stolen property in the amount of \$348; an unauthorized absence from 31 December 1991 to 4 February 1992; and two specifications of writing checks with insufficient funds in the amounts of \$198.07 and \$349.22. You were sentenced to confinement at hard labor for six months, a

forfeiture of \$547, reduction in rate to SKSR (E-1), and a bad conduct discharge. The convening authority approved the findings and the sentence on 19 May 1993. You received the bad conduct discharge on 13 June 1994.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been nearly six years since you were discharged. You provide no contentions or a persuasive argument in support of your application. The Board is prohibited by law from reviewing the findings of a court-martial and must limit its review to determining if the court-martial sentence should be reduced as a matter of clemency. The Board noted that you were previously convicted by a special court-martial for theft and obviously did not learn from your earlier experience. Trial by general court-martial was warranted by the gravity of the offenses charged. The Board also noted that you received less than the maximum sentence authorized for the serious offenses of which you were convicted by general court-martial. Your conviction and discharge were effected in accordance with applicable law and regulations and the discharge appropriately characterizes your service. The Board concluded that the discharge was proper and no clemency was warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director